

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Gary Washington,

Plaintiff,

v.

Continental Tire the Americas, LLC,

Defendant.

C/A No. 3:20-cv-04056-MGL-SVH

DEFENDANT’S MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”), Defendant Continental Tire the Americas, LLC (“Defendant” or “Continental”), by counsel, hereby moves the Court to enter an Order dismissing Plaintiff’s Amended Complaint in its entirety, with prejudice, for failure to state a claim upon which relief can be granted.

As demonstrated more fully in the Memorandum in Support of Defendant’s Motion to Dismiss, which Defendant is filing contemporaneously with this Motion and incorporates herein by reference pursuant to Fed. R. Civ. P. 10(c), Plaintiff’s Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6), with prejudice, because Plaintiff fails to state a plausible claim for relief under the Age Discrimination in Employment Act of 1967 (“ADEA”) and for interference with his purported rights under the Family and Medical Leave Act of 1993 (“FMLA”). Therefore, his claims fail as a matter of law.

Accordingly, based on the foregoing, Defendant Continental Tire the Americas, LLC, by counsel, requests the Court to enter an Order dismissing, with prejudice, Plaintiff’s Amended Complaint in its entirety for failure to state a claim upon which relief can be granted; awarding it

its reasonable attorneys' fees and costs; and awarding such other relief as this Court deems just and proper.

This the 2nd day of April, 2021.

Respectfully submitted,

/s/ T. Richmond McPherson, III

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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2021, I electronically filed the foregoing with the Clerk of the court using the CM/ECF system, which will automatically send an email notification to all counsel of record for Plaintiff at the below addresses:

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